

**STIPULATION AND AGREED ORDER ADOPTING WATER DISTRIBUTION
PROGRAM** (Docket No. 125)

WHEREAS, on August 10, 2021, the Court entered the Stipulation and Agreed Order Among the Debtor, the Official Committee of Unsecured Creditors and Certain Class Action Plaintiffs [Docket No. 56] (the “**Mediation Stipulation**”)² pursuant to which the Cotton Plaintiffs, Shirley Plaintiffs, Boynes Plaintiffs, Debtors and Committee agreed to a Voluntary Stay of the Cotton Class Action, Shirley Class Action and Boynes Class Action to allow the parties to mediate certain alleged Exigent Health and Safety Issues;

WHEREAS, the Cotton Plaintiffs, Shirley Plaintiffs, Boynes Plaintiffs, Charles Plaintiffs (collectively, the Plaintiffs), Debtors, Committee and Non-Debtor Defendants have been engaged in mediation since entry of the Mediation Stipulation to, among other things, address the Exigent Health and Safety Issues, and have continued the Voluntary Stay by agreement to allow those discussions to proceed;

WHEREAS, the Charles Plaintiffs are not a party to the Mediation Stipulation but have voluntarily and fully participated in the mediation to date;

WHEREAS, prior to entry of the Mediation Stipulation, the Debtors and Limetree Bay Terminals, LLC (“**LBT**”) established a program for distributing water to certain residents of the U.S. Virgin Islands (the “**Water Program**”) at a location near the Limetree Bay refinery (the “**Limetree Distribution Center**”); and

WHEREAS, the Debtors, LBT and the Plaintiffs (collectively, the “**Parties**”) have reached an agreement to address a portion of the alleged Exigent Health and Safety Issues by expansion of the ongoing Water Program on the terms set forth herein (the “**Expanded Water Program**”);

² Capitalized terms used herein and not defined have the meaning set forth in the Mediation Stipulation.

IT IS THEREFORE STIPULATED, AGREED AND ORDERED THAT

1. The Parties agree that the Expanded Water Program will be available to all people who reside in the communities comprising the subdistricts of Southcentral, Northcentral, Southwest and Frederiksted (the “**Covered Area**”). Examples of communities within the Covered Area are Clifton Hill, Profit Hills, Kingshill, University of Virgin Islands Campus, Hannah’s Rest, Frederiksted, Estate Northside, Smithfield, Upper Bethlehem, Mars Hill, Estate Carlton, Golden Grove, Grove Place, Negro Bay, Williams Delight, Whim, Sandy Point, La Grange, and Prosperity. The Debtors and LBT dispute that all of the Covered Area has been impacted by any of the alleged contamination incidents at the refinery and reserve all rights regarding that issue, and have agreed to expand coverage of the water program to the Covered Area solely as a concession to further the mediation process. The Plaintiffs believe that areas beyond the Covered Area may have been affected by the alleged contamination issues at the refinery and reserve all rights with regard to that issue.

2. The Parties agree that the Debtors and LBT agree to expand the hours of distribution at their Limetree Distribution Center to 2:00 p.m. – 9:00 p.m., Monday through Saturday. The Parties agree that two (2) additional water distribution centers will be established, operated, and serviced by the Debtors and LBT in the following locations (collectively, the “**Additional Distribution Centers**” and together with the Limetree Distribution Center, the “**Distribution Centers**”), subject to the Debtors and/or LBT obtaining any necessary permits or access agreements, as applicable:

A. Sunshine Mall: 7:00 a.m. to 4:00 p.m., Monday, Wednesday, and Friday.

B. Frederiksted Ball Park: 7:00 a.m. to 4:00 p.m., Tuesday, Thursday, and Saturday.

To whatever extent the Debtors and LBT are unable to reasonably secure any necessary permits

or access agreements for the specific properties listed above, or to whatever extent such locations create concerns for the security of the employees or contractors, the Debtors and LBT will identify alternative locations proximate to the above listed locations, and will consult with counsel for the Plaintiffs before proceeding with such alternate location. The Debtor and LBT will engage security for each of the Additional Distribution Centers for all hours of operation. The foregoing arrangements for the Additional Distribution Centers and costs associated with operating Additional Distribution Centers will be subject to a capped, total expense of \$180,000 each month (the “**Monthly Cap**”). In the event the Monthly Cap is exceeded in any given month, the Debtors and LBT shall have the right to discontinue service at the Additional Distribution Centers for the remainder of such month. Upon discontinuing service in any given month, the Debtors shall provide to Plaintiffs documentation showing that the costs exceed the Monthly Cap. For the avoidance of doubt, the Limetree Distribution Center shall remain open notwithstanding discontinuance of the Additional Distribution Centers pursuant to the preceding paragraph.

3. Water will be made available by the Debtors and LBT at no cost to residents of the Covered Area. In order to establish residency in the Covered Area, the Debtors and LBT agree to accept documents that show an established residence in the Covered Area, including, without limitation, a driver’s license, a lease, utility bill, deed, or affirmation of occupancy from an owner or lease holder, which will be presented at the applicable Distribution Center each time a resident picks up water. The personnel working at the Distribution Center shall have no discretion to deny residents water and shall not discourage residents from obtaining water from the Distribution Centers upon proof of residency within the Covered Area as outlined herein; provided, however, the personnel working at the Distribution Centers shall be authorized to deny water if the person requesting the water fails to provide the aforementioned proof of residency within the Covered

Area. Each resident within the Covered Area is entitled to no more than 4 gallons of water per day, up to 20 gallons per week per household.

4. The Parties agree to negotiate in good faith over a protocol to allow residents who can establish residency in the Covered Area and that are physically unable to access the Distribution Centers to become eligible for home deliveries.

5. The Debtor and LBT will use commercially reasonable efforts to distribute one-gallon sized containers of water at the Distribution Centers.

6. The residents of the Covered Area shall be notified of the location and hours of operations of each of the Distribution Centers and the type of documentation that must be presented to establish eligibility for the Expanded Water Program. In order to provide notice, daily advertisements of at least a quarter page size will be placed in the Virgin Islands Consortium and through its online website in the first week following establishment of the Additional Distribution Centers. Additionally, for the first week following the establishment of the Additional Distribution Centers, the Debtors/LBT will acquire bundled advertisement time for public announcements or advertisements, including through JKC, Reef Broadcasting, and Da Vybe, which bundled advertising will include spots on the Poppy Pops Senior Show, the St. Claire Show, and Chucky Hanson Show. After the first week, notice of any changes to the water distribution program, including, without limitation, discontinuance of service pursuant to paragraph 2, will be provided through social media and at the applicable location at least three days in advance of any such change.

7. The Debtors and LBT will use commercially reasonable efforts to ensure that the Additional Distribution Centers will be set up and operational within five business days of the later of (i) entry of this Stipulation and Agreed Order; and (ii) the Debtors and LBT obtaining any

necessary permits, access agreements, or COVID-19 related approvals of the health department, for the Additional Distribution Centers.

8. The Voluntary Stay shall remain in full force and effect through and including December 1, 2021 (the “Extended Voluntary Stay Period”). If the Parties reach an impasse at the mediation or if the mediation otherwise terminates prior to the end of the Extended Voluntary Stay Period, any of the Parties may terminate the Voluntary Stay by providing seven days written notice of such termination to the other Parties. If the Voluntary Stay is terminated or expires, the Debtors and LBT shall have the right to discontinue or modify the Water Program and Expanded Water Program, including closing any of the Distribution Centers, in their sole discretion. The Voluntary Stay may be further extended upon agreement of the Parties.

9. All Parties reserve all rights relating to the issues resolved by this Stipulation and Agreed Order and any other issues related to the Class Actions, including but not limited to the certifiability of any putative class in the class actions and any and all defenses to the claims in those class actions. In addition, nothing in this Stipulation and Agreed Order shall be deemed an admission of any fact or as to any liability, including but not limited to the area impacted by the contamination incidents at the refinery or the necessity of the Water Program or Expanded Water Program. All rights of the Parties are expressly reserved and preserved.

10. The Court shall retain jurisdiction to interpret and enforce this Stipulation and Agreed Order.

IT IS SO ORDERED.

Signed: October 29, 2021.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

STIPULATED AND AGREED TO ON THIS 26TH DAY OF OCTOBER, 2021

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